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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,507	10/16/2001	Darrell G. Meyer	344.07-US2	6731
34284	7590	09/10/2007	EXAMINER	
Rutan & Tucker, LLP. Hani Z. Sayed 611 ANTON BLVD SUITE 1400 COSTA MESA, CA 92626			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3636	
			MAIL DATE	DELIVERY MODE
			09/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/981,507

**Applicant(s)**

MEYER, DARRELL G.

**Examiner**

Winnie Yip

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant has suggested an interference pursuant to 37 CFR 41.202(a) in a communication filed October 16, 2001. However, **the claims are not interfere** for following reasons:

(A) In claims 29, 46, 49, 50, 54, and 56, the scope of the structural limitation of “a substantially flat main web wall(s)” (which includes lips 220) as claimed in the application is different than the scope of the structural limitation of “a planar main web wall(s)” of the US patent 6131362 to Buecker.

(B) In another hand, the specification of the application does not have sufficient support to the limitation of “a planar main web wall” as recited in the patent 6,131,362 to Buecker.

**Therefore, examination of this application has not been completed as required by 37 CFR 41.102(a). Consideration of a potential interference is premature. See MPEP § 2303.**

2. The affidavits filed on June 6, 2007 under 37 CFR 1.131 is considered and placed on the record. It is deemed sufficient to overcome the Buecker reference and the rejection is withdrawn based upon the claims are not interfered.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 32, 38-43, 49, and 56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matters that were not sufficiently described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Regard to claim 32, the subject matter of "a thickness in the range of from approximately 18-gauge to approximately 24-gauge" was not described in the specification as originally filed. The specification, page 7, only defines the chords 100 being made of sheet of metal that "may utilize various gauges steel including, but not necessarily limited to 18-gauge and 20-gauge". The specification does not define the range from "approximately 18-gauge to approximately 24-gauge" as claimed.

Regard to claim 56, the subject matter of "each of the beam having .... a first and a second sheet metal web walls, the first web wall extending from one angular support wall and the second web wall extending from another angular support wall ..., a substantially flat main web wall is disposed between the beam components, and fastening device connecting the first and second web walls to the substantially flat main web wall" was not read on the embodiment of the application as described in the specification as originally filed. Notice, the application only defines the fastening device (230) connecting one of first (or second) web wall (24) to the main web wall (i.e. 210, 220), but does not show the fastening device connecting both first and second web walls of each chord to the main web wall as claimed.

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Regards to claims 38-43 and 49, the subject matters of "longitudinal edges" in the flat end walls, the side walls, and the angular support walls being connected together have not been defined in the specification.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 29-31, 34-37, 45-48, 50-51, 53-56 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent No. 267,843 to Delgado.

Delgado shows and discloses a building beam structure (1) comprising:

upper and lower sheet metal chords, each of the chords having five walls including:

a substantial horizontal flat end wall (12a),

two opposed generally vertical side walls (13) extending from the end wall and having respective flat fastening surfaces;

and two angular support walls (14), each of the angular support walls extending from one of the side walls, and the angular support walls converging inwardly from the side walls;

a sheet metal central web section (10) disposed between the two chords and including a substantially flat main web wall (10) extending straight between one of the angular support walls on each of the chords, a first web wall section (15) extending from another of the angular support walls on one of the chords, and a second web wall section (15) extending from another of the angular support walls on another of the chords;

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wherein, the first and second web wall sections (15) are connected to the main web wall (10) by a suitable fastening device such as by welding.

Regarding claim 31, wherein the chords and the sheet metal central web section are made from a single piece of sheet metal.

Regarding claims 34-37, wherein the end walls (12, 12b) of two chords are disposed in generally horizontal direction and are substantially parallel to each other, and the sidewalls (13) are substantially perpendicular to the end wall (12a or 12b); the central web section (10) is disposed in a generally vertical direction and are substantially perpendicular to the end walls (12a, 12b) and parallel to the sidewalls (13), and the side walls of one chord is co-substantially flat with the side walls of the other chord.

Regarding claims 45 and 53, wherein the side walls of one chord are cosubstantially flat with the side walls of the other of chord respectively.

Regarding claims 38-43 and 49, Delgado defines the flat end walls, the side walls and the angular support walls each having longitudinal edges (i.e., 11a) being connected together to define the sheet metal chords with corners as claimed.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 44 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent No. 267,843 to Delgado as applied to claims 29 and 50-51 above, and further in view of US Patent No.3,066,772 to Gibson.

The claims are considered to meet by Delgado as explained and applied above rejection except that Delgado does not explicitly define the beam structure having holes formed along the central web section as claimed. Gibson teaches, as known in the art, a building beam structure comprising a central web section (10) disposed between two chords (11), wherein the central web section (10) having a plurality of holes (13, 15) disposed spaced apart longitudinally along the central web section being sized for facilitating passage of utilities (see col. 3, lines 25-27). It would have been obvious to one ordinary skill in the construction art at the time the invention was made to modify the beam structure of Delgado having holes disposed spaced apart and longitudinally along the central web section as taught by Gibson for facilitating utilities passed therethrough.

8. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent No. 267,843 to Delgado as applied to claims 29 and 50-51 above.

Although Delgado does not explicitly define the beam structure being made of sheet metal having specific thickness in a range of approximately 18-gauge to 20-gauge, however, a beam structure being made of sheet metal being selected having specific thickness of 18-gauge to approximately 20-gauge is well known in art. One of ordinary skill in the art, furthermore, would have expected applicant's beam structure to perform equally well with sheet metal having a thickness in the range of from approximately 18-gauge to approximate 20-gauge as an obvious

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matter of choice for providing a sufficiently supported beam to accommodate various applications.

*Response to Arguments*

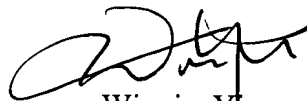
9. Applicant's arguments with respect to claims 29-56 have been considered but are moot in view of the new ground(s) of rejection.

*Inquiry Contacts*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip  
Primary Examiner  
Art Unit 3636

wsy

August 29, 2007